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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/029,457      | 12/21/2001  | Xuyen Pham           | LAM2P310            | 5483             |

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MARTINE & PENILLA, LLP  
710 LAKEWAY DRIVE  
SUITE 170  
SUNNYVALE, CA 94085

EXAMINER

ELEY, TIMOTHY V

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3724

DATE MAILED: 05/05/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,457

Applicant(s)

PHAM, XUYEN

Examiner

Timothy V Eley

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-6 and 21 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 3724

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1,5,6, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Beardsley(6,135,865) et al.

a. Beardsley et al discloses a platen plate having at least one recess(306) defined therein, the at least one recess having an input port(connected to conduit 324) formed therein; and a porous material(208) disposed in the at least one recess, the porous material having a porosity sufficient to restrict air flow therethrough so as to reduce an amount of air required for a CMP operation. See figure 5, and column 4, lines 6-33.

b. Regarding claims 5 and 6, the recess and the porous material have an "annular shape" as broadly recited by applicant.

***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beardsley et al.

a. Beardsley et al is explained above.

b. Beardsley et al does not disclose the specific type of porous material, nor the exact pore size of the porous material recited by applicant.

Art Unit: 3724

c. However, the exact type of porous material and the exact pore size thereof would have both been obvious matters of choice and structural design to one having ordinary skill in the art at the time the invention was made, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for intended use as a matter of design choice. In re Leshin, 125 USPQ 416.

Furthermore, applicant's broad recitation of a ceramic material, an aluminum-based material, stainless steel, a nickel-based material, and a titanium-based material, does not appear to lend any critically to the invention. In addition, porous polishing pads as disclosed by Beardsley et al inherently have very small pore size in order to maintain slurry thereon.

***Allowable Subject Matter***

5. Claims 9-14, and 22 are allowed.

6. Claims 7 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments, filed November 03, 2003, with respect to the rejections of claims 1,2,5, and 6 have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new grounds of rejection is made in view of Beardsley et al.

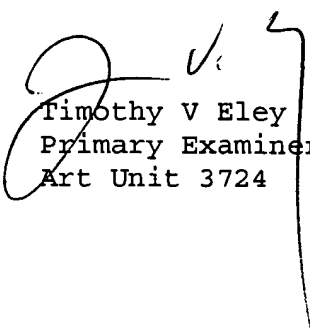
Art Unit: 3724

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy V Eley whose telephone number is 703-308-1824. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Timothy V Eley  
Primary Examiner  
Art Unit 3724

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